

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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T. PATRICK FREYDL,

Plaintiff,

-against-

JOHN C. MERINGOLO, MERINGOLO
& ASSOCIATES, P.C., a NEW YORK
PROFESSIONAL SERVICE CORPORATION,

Defendants.
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MEMORANDUM AND ORDER

09 Civ. 07196 (BSJ)(KNF)

KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE

By an order, dated January 7, 2011, the Court denied the defendants' motion for a protective order and found that the plaintiff is entitled to the reasonable expenses incurred in opposing the motion, pursuant to the Federal Rules of Civil Procedure. Before the Court is the plaintiff's unopposed¹ application for reasonable expenses. He seeks: (a) \$17.50 for parking fees, because he conducted research in a public library, which charges for parking; (b) \$49.50 in copying fees for "330 copies, including authorities, pleadings, exhibits, and correspondence"; and (c) \$437.50 for compensating "an independent contractor" who "dedicated to this Opposition . . . 17.5 hours." According to the plaintiff, his independent contractor's duties include "helping [him] pull authorities, shepherdizing, copying, and packaging pleading for transmittal to the Court and Opposing Counsel" and she "also serves as [his] typist."

The time a pro se litigant spends making or opposing a motion is not included in the reasonable expenses contemplated by Rule 37 of the Federal Rules of Civil Procedure. See Walker v. Tri-Tech Planning Consultants, Inc., 149 F.R.D. 22, 23 (E.D.N.Y. 1993). While the

¹ The defendants' opposition to the motion is untimely because it was due on January 25, 2011, seven days after the plaintiff's service of the motion, which was effected on January 18, 2011, as demonstrated by Docket Entry No. 43. See Local Civil Rule 6.1 (a). However, the defendants filed their opposition on February 3, 2011.

time the plaintiff's independent contractor spent performing attorney-like activities is not compensable under the reasonable expenses contemplated by Rule 37, the administrative services she provided to the plaintiff in connection with the opposition to the defendants' motion may be within the scope of the Rule 37 expenses. However, the plaintiff failed to itemized the time the independent contractor spent on the administrative tasks and how much he expended in connection with that time. As a result, the Court cannot assess whether any such time and expense is reasonable and the plaintiff is not entitled to the amount he seeks for his independent contractor's services. The plaintiff's copying and parking fees appear to be reasonable. Accordingly, the plaintiff is entitled to \$67 in reasonable expenses incurred in opposing the defendant's motion for a protective order.

Dated: New York, New York
February 4, 2011

SO ORDERED:



KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE

Copies mailed to:

T. Patrick Freydl
Antonino D'Aiuto, Esq.